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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

8
9 Michelle Lewis,

No. CV-23-01479-PHX-JAT (ESW)

10 Plaintiff,

11 **ORDER**

12 v.
13 Paul Penzone, et al.,

14 Defendants.

15 On July 26, 2023, Plaintiff Michelle Lewis, who is confined in a Maricopa County
16 Jail, filed a pro se civil rights Complaint pursuant to 42 U.S.C. § 1983 and an Application
17 to Proceed In Forma Pauperis. In a September 14, 2023 Order, the Court granted the
18 Application to Proceed and dismissed the Complaint with leave to amend. On September
19 28, 2023, Plaintiff filed a First Amended Complaint (Doc. 7). The Court will dismiss the
20 First Amended Complaint with leave to amend.

21 **I. Statutory Screening of Prisoner Complaints**

22 The Court is required to screen complaints brought by prisoners seeking relief
23 against a governmental entity or an officer or an employee of a governmental entity. 28
24 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff
25 has raised claims that are legally frivolous or malicious, that fail to state a claim upon which
26 relief may be granted, or that seek monetary relief from a defendant who is immune from
27 such relief. 28 U.S.C. § 1915A(b)(1)–(2).

28 A pleading must contain a “short and plain statement of the claim *showing* that the

1 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does
 2 not demand detailed factual allegations, “it demands more than an unadorned, the-
 3 defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678
 4 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere
 5 conclusory statements, do not suffice.” *Id.*

6 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a
 7 claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*,
 8 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content
 9 that allows the court to draw the reasonable inference that the defendant is liable for the
 10 misconduct alleged.” *Id.* “Determining whether a complaint states a plausible claim for
 11 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial
 12 experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s specific factual
 13 allegations may be consistent with a constitutional claim, a court must assess whether there
 14 are other “more likely explanations” for a defendant’s conduct. *Id.* at 681.

15 But as the United States Court of Appeals for the Ninth Circuit has instructed, courts
 16 must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338, 342
 17 (9th Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less stringent
 18 standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v. Pardus*, 551
 19 U.S. 89, 94 (2007) (per curiam)).

20 If the Court determines that a pleading could be cured by the allegation of other
 21 facts, a *pro se* litigant is entitled to an opportunity to amend a complaint before dismissal
 22 of the action. *See Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc).
 23 Plaintiff’s First Amended Complaint will be dismissed for failure to state a claim, but
 24 because it may possibly be amended to state a claim, the Court will dismiss it with leave
 25 to amend.

26 **II. First Amended Complaint**

27 In her one-count First Amended Complaint, Plaintiff sues Maricopa County Sheriff
 28 Paul Penzone and Maricopa County Supervisor Clint Hickman. She raises an Eighth

1 Amendment claim and seeks monetary damages for her “[e]motional, physical; mental
 2 tort” injury and “[m]old spore damage to health.”

3 Plaintiff contends “the responsibility [for] operating a jail” is placed on the county
 4 sheriff (Defendant Penzone) and on Defendant Hickman. Plaintiff claims Defendants are
 5 aware the Estrella Jail has been condemned since 2017 and Defendant Hickman “supplies
 6 funding” for Defendant Penzone to pay the fines to keep the Jail open. She asserts
 7 Defendants have “disregarded that excessive risk to all inmate health and safety” and have
 8 a “duty to keep Plaintiff reasonably safe from harm.” Plaintiff contends that through “his
 9 [sic] policy,” Defendants “knowingly and deliberately continue[] to house Plaintiff in a
 10 contaminated environment with no chance of no exposure[which] is malfeasance,
 11 misconduct and gross negligence.”

12 **III. Failure to State a Claim**

13 Although pro se pleadings are liberally construed, *Haines v. Kerner*, 404 U.S. 519,
 14 520-21 (1972), conclusory and vague allegations will not support a cause of action. *Ivey*
 15 *v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982). Further, a liberal interpretation of a
 16 civil rights complaint may not supply essential elements of the claim that were not initially
 17 pled. *Id.*

18 To state a valid claim under § 1983, plaintiffs must allege that they suffered a
 19 specific injury as a result of specific conduct of a defendant and show an affirmative link
 20 between the injury and the conduct of that defendant. *See Rizzo v. Goode*, 423 U.S. 362,
 21 371-72, 377 (1976). There is no respondeat superior liability under § 1983, and therefore,
 22 a defendant’s position as the supervisor of persons who allegedly violated Plaintiff’s
 23 constitutional rights does not impose liability. *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658
 24 (1978); *Hamilton v. Endell*, 981 F.2d 1062, 1067 (9th Cir. 1992); *Taylor v. List*, 880 F.2d
 25 1040, 1045 (9th Cir. 1989). “Because vicarious liability is inapplicable to . . . § 1983 suits,
 26 a plaintiff must plead that each Government-official defendant, through the official’s own
 27 individual actions, has violated the Constitution.” *Iqbal*, 556 U.S. at 676.

28 A pretrial detainee has a right under the Due Process Clause of the Fourteenth

1 Amendment to be free from punishment prior to an adjudication of guilt. *Bell v. Wolfish*,
 2 441 U.S. 520, 535 (1979). “Pretrial detainees are entitled to ‘adequate food, clothing,
 3 shelter, sanitation, medical care, and personal safety.’” *Alvarez-Machain v. United States*,
 4 107 F.3d 696, 701 (9th Cir. 1996) (quoting *Hoptowit v. Ray*, 682 F.2d 1237, 1246 (9th Cir.
 5 1982)). To state a claim of unconstitutional conditions of confinement against an
 6 individual defendant, a pretrial detainee must allege facts that show:

7 (i) the defendant made an intentional decision with respect to
 8 the conditions under which the plaintiff was confined;
 9 (ii) those conditions put the plaintiff at substantial risk of
 10 suffering serious harm; (iii) the defendant did not take
 11 reasonable available measures to abate that risk, even though a
 12 reasonable official in the circumstances would have
 13 appreciated the high degree of risk involved—making the
 14 consequences of the defendant’s conduct obvious; and (iv) by
 15 not taking such measures, the defendant caused the plaintiff’s
 16 injuries.

17 *Gordon v. County of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018).

18 Whether the conditions and conduct rise to the level of a constitutional violation is
 19 an objective assessment that turns on the facts and circumstances of each particular case.
 20 *Id.; Hearns v. Terhune*, 413 F.3d 1036, 1042 (9th Cir. 2005). However, “a de minimis
 21 level of imposition” is insufficient. *Bell*, 441 U.S. at 539 n.21. In addition, the “mere lack
 22 of due care by a state official’ does not deprive an individual of life, liberty, or property
 23 under the Fourteenth Amendment.” *Castro v. County of Los Angeles*, 833 F.3d 1060, 1071
 24 (9th Cir. 2016) (quoting *Daniels v. Williams*, 474 U.S. 327, 330-31 (1986)). Thus, a
 25 plaintiff must “prove more than negligence but less than subjective intent—something akin
 26 to reckless disregard.” *Id.*

27 Plaintiff’s vague and conclusory allegations do not support a conclusion that
 28 Defendants Penzone and Hickman made an intentional decision that put Plaintiff at
 29 substantial risk of suffering serious harm. Plaintiff has not adequately described a
 30 purportedly hazardous condition or alleged any facts connecting her vague injury of an
 31 “[e]motion, physical; mental tort” to such condition. Absent more, Plaintiff has failed to

1 state a claim. The Court will therefore dismiss without prejudice Plaintiff's First Amended
 2 Complaint.

3 **IV. Leave to Amend**

4 For the foregoing reasons, the Court will dismiss Plaintiff's First Amended
 5 Complaint for failure to state a claim upon which relief may be granted. Within 30 days,
 6 Plaintiff may submit a second amended complaint to cure the deficiencies outlined above.
 7 The Clerk of Court will mail Plaintiff a court-approved form to use for filing a second
 8 amended complaint. If Plaintiff fails to use the court-approved form, the Court may strike
 9 the second amended complaint and dismiss this action without further notice to Plaintiff.

10 Plaintiff must clearly designate on the face of the document that it is the "Second
 11 Amended Complaint." The second amended complaint must be retyped or rewritten in its
 12 entirety on the court-approved form and may not incorporate any part of the original
 13 Complaint or First Amended Complaint by reference. Plaintiff may include only one claim
 14 per count.

15 A second amended complaint supersedes the original Complaint and First Amended
 16 Complaint. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v.*
 17 *Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1990). After amendment, the Court
 18 will treat the original Complaint and First Amended Complaint as nonexistent. *Ferdik*,
 19 963 F.2d at 1262. Any cause of action that was raised in the original Complaint or First
 20 Amended Complaint and that was voluntarily dismissed or was dismissed without
 21 prejudice is waived if it is not alleged in a second amended complaint. *Lacey v. Maricopa*
 22 *County*, 693 F.3d 896, 928 (9th Cir. 2012) (en banc).

23 **V. Warnings**

24 **A. Release**

25 If Plaintiff is released while this case remains pending, and the filing fee has not
 26 been paid in full, Plaintiff must, within 30 days of her release, either (1) notify the Court
 27 that she intends to pay the unpaid balance of her filing fee within 120 days of her release
 28 or (2) file a non-prisoner application to proceed in forma pauperis. Failure to comply may

1 result in dismissal of this action.

2 **B. Address Changes**

3 Plaintiff must file and serve a notice of a change of address in accordance with Rule
4 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
5 relief with a notice of change of address. Failure to comply may result in dismissal of this
6 action.

7 **C. Possible “Strike”**

8 Because the First Amended Complaint has been dismissed for failure to state a
9 claim, if Plaintiff fails to file a second amended complaint correcting the deficiencies
10 identified in this Order, the dismissal may count as a “strike” under the “3-strikes”
11 provision of 28 U.S.C. § 1915(g). Under the 3-strikes provision, a prisoner may not bring
12 a civil action or appeal a civil judgment in forma pauperis under 28 U.S.C. § 1915 “if the
13 prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility,
14 brought an action or appeal in a court of the United States that was dismissed on the
15 grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be
16 granted, unless the prisoner is under imminent danger of serious physical injury.” 28
17 U.S.C. § 1915(g).

18 **D. Possible Dismissal**

19 If Plaintiff fails to timely comply with every provision of this Order, including these
20 warnings, the Court may dismiss this action without further notice. *See Ferdik*, 963 F.2d
21 at 1260-61 (a district court may dismiss an action for failure to comply with any order of
22 the Court).

23 **IT IS ORDERED:**

24 (1) The First Amended Complaint (Doc. 7) is **dismissed** for failure to state a
25 claim. Plaintiff has **30 days** from the date this Order is filed to file a second amended
26 complaint in compliance with this Order.

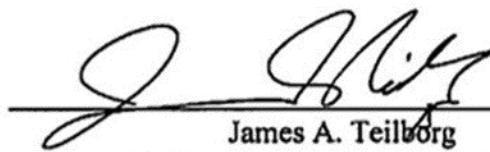
27 (2) If Plaintiff fails to file a second amended complaint within 30 days, the Clerk
28 of Court must, without further notice, enter a judgment of dismissal of this action with

1 prejudice that states that the dismissal may count as a “strike” under 28 U.S.C. § 1915(g)
2 and deny any pending unrelated motions as moot.

3 (3) The Clerk of Court must mail Plaintiff a court-approved form for filing a
4 civil rights complaint by a prisoner.

5 Dated this 16th day of January, 2024.

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James A. Teilborg
Senior United States District Judge

**Instructions for a Prisoner Filing a Civil Rights Complaint
in the United States District Court for the District of Arizona**

1. **Who May Use This Form.** The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
2. **The Form.** **Local Rule of Civil Procedure (LRCiv) 3.4 provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
3. **Your Signature.** You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. **The Filing and Administrative Fees.** The total fees for this action are \$402.00 (\$350.00 filing fee plus \$52.00 administrative fee). If you are unable to immediately pay the fees, you may request leave to proceed in forma pauperis. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court In Forma Pauperis Pursuant to 28 U.S.C. § 1915” for additional instructions.
5. **Original and Judge's Copy.** You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**
6. **Where to File.** You should file your complaint in the division **where you were confined when your rights were allegedly violated.** See LRCiv 5.1(a) and 77.1(a). If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Mail the original and one copy of the complaint with the \$402 filing and administrative fees or the application to proceed in forma pauperis to:**

Phoenix & Prescott Divisions:
U.S. District Court Clerk
U.S. Courthouse, Suite 130
401 West Washington Street, SPC 10
Phoenix, Arizona 85003-2119

OR

Tucson Division:
U.S. District Court Clerk
U.S. Courthouse, Suite 1500
405 West Congress Street
Tucson, Arizona 85701-5010

7. **Change of Address.** You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. **Certificate of Service.** You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed in forma pauperis). Each original document (except the initial complaint and application to proceed in forma pauperis) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. *See Fed. R. Civ. P. 5(a), (d).* Any document received by the Court that does not include a certificate of service may be stricken. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**

A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed
this _____ (month, day, year) to:

Name: _____
Address: _____

Attorney for Defendant(s)

(Signature)

9. **Amended Complaint.** If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court within 21 days after serving it or within 21 days after any defendant has filed an answer, whichever is earlier. *See Fed. R. Civ. P. 15(a).* Thereafter, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. **Exhibits.** You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. **Letters and Motions.** It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

12. Completing the Civil Rights Complaint Form.

HEADING:

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

Part A. JURISDICTION:

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “*Bivens v. Six Unknown Federal Narcotics Agents*” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

Part B. PREVIOUS LAWSUITS:

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

Part C. CAUSE OF ACTION:

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. **Counts**. You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**
2. **Issue Involved**. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked "Other," you must identify the specific issue involved.
3. **Supporting Facts**. After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.
4. **Injury**. State precisely how you were injured by the alleged violation of your rights.
5. **Administrative Remedies**. You must exhaust any available administrative remedies before you file a civil rights complaint. *See 42 U.S.C. § 1997e.* Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

Part D. REQUEST FOR RELIEF:

Print the relief you are seeking in the space provided.

SIGNATURE:

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

FINAL NOTE

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

Name and Prisoner/Booking Number

Place of Confinement

Mailing Address

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

_____,
(Full Name of Plaintiff)

Plaintiff,

v.

(1) _____,
(Full Name of Defendant)

(2) _____,

(3) _____,

(4) _____,

Defendant(s).

Check if there are additional Defendants and attach page 1-A listing them.

CASE NO. _____

(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT
BY A PRISONER**

- Original Complaint
- First Amended Complaint
- Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

- 28 U.S.C. § 1343(a); 42 U.S.C. § 1983
- 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).
- Other: _____.

2. Institution/city where violation occurred: _____.

B. DEFENDANTS

1. Name of first Defendant: _____ The first Defendant is employed as: _____ at _____.
(Position and Title) (Institution)
2. Name of second Defendant: _____ The second Defendant is employed as: _____
as: _____ at _____.
(Position and Title) (Institution)
3. Name of third Defendant: _____ The third Defendant is employed as: _____ at _____.
(Position and Title) (Institution)
4. Name of fourth Defendant: _____ The fourth Defendant is employed as: _____ at _____.
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? Yes No
2. If yes, how many lawsuits have you filed? _____. Describe the previous lawsuits:
 - a. First prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____.
 - b. Second prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____.
 - c. Third prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____.

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

D. CAUSE OF ACTION

COUNT I

1. State the constitutional or other federal civil right that was violated: _____

2. **Count I.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities Mail Access to the court Medical care
 Disciplinary proceedings Property Exercise of religion Retaliation
 Excessive force by an officer Threat to safety Other: _____.

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count I. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

5. **Administrative Remedies:**

a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? Yes No

b. Did you submit a request for administrative relief on Count I? Yes No

c. Did you appeal your request for relief on Count I to the highest level? Yes No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

COUNT II

1. State the constitutional or other federal civil right that was violated: _____
_____:

2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities Mail Access to the court Medical care
 Disciplinary proceedings Property Exercise of religion Retaliation
 Excessive force by an officer Threat to safety Other: _____.

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

5. Administrative Remedies.

a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? Yes No

b. Did you submit a request for administrative relief on Count II? Yes No

c. Did you appeal your request for relief on Count II to the highest level? Yes No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

COUNT III

1. State the constitutional or other federal civil right that was violated: _____

_____.

2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities Mail Access to the court Medical care
 Disciplinary proceedings Property Exercise of religion Retaliation
 Excessive force by an officer Threat to safety Other: _____.

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

5. **Administrative Remedies.**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? Yes No
- b. Did you submit a request for administrative relief on Count III? Yes No
- c. Did you appeal your request for relief on Count III to the highest level? Yes No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.

E. REQUEST FOR RELIEF

State the relief you are seeking:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
DATE

SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.